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Committee on Relations with the Host Country

Letter dated 19 December 2005 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country

I have the honour to enclose a copy of the note verbale that has been sent to the United States Mission to the United Nations in response to the Mission's note of 13 December 2005 regarding measures to be imposed by the New York City authorities on the permanent missions to the United Nations in connection with the possible transit strike (see annex). I kindly ask you, in your capacity as Chairman of the Committee on Relations with the Host Country, to circulate the present letter and its annex as a document of the Committee.

(*Signed*) Andrey **Denisov**

05-65741 (E) 221205

Annex to the letter dated 19 December 2005 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country

The Permanent Mission of the Russian Federation to the United Nations presents its compliments to the United States Mission to the United Nations and, referring to the latter's note verbale of 13 December 2005, has the honour to express its profound concern over the measures to be imposed by the New York City authorities on the permanent missions to the United Nations in connection with the transit strike.

The residential compound of the Russian Mission is located in Riverdale, in the Bronx, and the absolute majority of our personnel (more than 100 persons) have to enter Manhattan to get to the office and the United Nations Headquarters. Moreover the location of the Mission's official building on 67th Street presupposes the availability of a car fleet to ensure transportation to and from the United Nations. Buses used by this Mission cannot solve the problem due to the number of our diplomatic staff.

With due understanding of the importance of cooperation with the City of New York in protecting the public health and safety of all City residents, this Mission nevertheless believes that some measures, above all the HOV-4 requirement for entry to and exit from Manhattan, if applied to diplomatic agents, are inconsistent with the basic norms of international law and obligations of the host country vis-à-vis the privileges and immunities of diplomatic missions.

Under the 1947 Headquarters Agreement between the United Nations and the Government of the United States (section 11) "The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations".

Furthermore, article 26 of the 1961 Vienna Convention on Diplomatic Relations reads: "Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory".

Leaving aside security related problems and viability questions, the requirement to transport passengers to or from Manhattan contradicts article 35 of the Vienna Convention providing for that "The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever ...".

Finally, the Russian Mission wishes to remind the Committee that, according to, inter alia, section 25 of the Headquarters Agreement, "Wherever this agreement imposes obligations on the appropriate American authorities the Government of the United States shall have the ultimate responsibility for the fulfilment of such obligations by the appropriate American authorities".

The Russian Mission therefore expects that, according to the host country obligations, the United States Mission will take all necessary and timely steps to ensure the full and strict compliance with international law by the New York City authorities.

New York, 19 December 2005

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Committee on Relations with the Host Country

Letter dated 28 December 2005 from the Deputy Permanent Representative of the United States of America to the United Nations addressed to the Chairman of the Committee

I have the honour to enclose a copy of a note verbale dated 28 December 2005 that has been sent to the Permanent Mission of the Russian Federation to the United Nations in response to that Mission's note of 19 December 2005 (A/AC.154/364) regarding measures imposed by New York City authorities in connection with the recent transit strike (see annex). I request that you, in your capacity as Chairman of the Committee on Relations with the Host Country, circulate the present letter and its annex as a document of the Committee.

(*Signed*) Alejandro D. **Wolff**
Ambassador

05-66798 (E) 040106

Annex to the letter dated 28 December 2005 from the Deputy Permanent Representative of the United States of America to the United Nations addressed to the Chairman of the Committee

The United States Mission to the United Nations presents its compliments to the Permanent Mission of the Russian Federation to the United Nations and refers to concerns regarding the temporary traffic restrictions imposed by New York City in connection with the transit strike, as referred to in the Permanent Mission's note verbale dated 19 December 2005.

Section 11 of the 1947 Headquarters Agreement between the United Nations and the Government of the United States, referred to in that note verbale, clearly states that "[t]his section does not apply to general interruptions of transportation which are to be dealt with as provided in Section 17, and does not impair the effectiveness of generally applicable laws and regulations as to the operation of means of transportation."

Section 17 (a) of the Headquarters Agreement (found in Article VII, Public Services and Protection of the Headquarters District) states that the appropriate American authorities will exercise powers with respect to the supplying of public services to the Headquarters district, including transportation. Section 17 (a) also states that "In case of any interruption or threatened interruption of any such services, the appropriate American authorities will consider the needs of the United Nations as being of equal importance with the similar needs of essential agencies of the Government of the United States, and will take steps accordingly, to ensure that the work of the United Nations is not prejudiced." The city authorities made no exemption for United States Government essential agencies' personnel and accorded United States Government essential agencies no special treatment in regard to the transit strike. The United States has fulfilled its obligation under the relevant provision of the Headquarters Agreement to "consider the needs of the United Nations as being of equal importance with the similar needs of essential agencies of the Government of the United States, and will take steps accordingly, to ensure that the work of the United Nations is not prejudiced."

With respect to the concerns of the Permanent Mission regarding the HOV-4 requirement for entry to and exit from Manhattan, the United States Mission notes that entry into Manhattan south of 96th Street was temporarily restricted for six hours each morning of the three-day strike to vehicles with fewer than four occupants because of a general disruption in transportation that posed problems for health and safety. Access to United Nations Headquarters was never restricted to Mission members, nor was access restricted to vehicles that were located south of 96th Street between the hours in question. In the case of the Russian Mission, many of whose members live in residential proximity north of 96th Street, the carpooling recommended by city authorities would have facilitated freedom of movement during the period of vehicular restrictions for Mission members to travel and reach their destinations.

Section 25 of the Headquarters Agreement, referred to in the note verbale states that "Wherever this agreement imposes obligations on the appropriate American authorities, the Government of the United States shall have the ultimate responsibility for the fulfilment of such obligations by the appropriate American authorities." The United States Mission continues to meet its responsibility under that section and is in contact with New York City authorities to ensure fulfilment of those obligations.